

DUI AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill amends provisions related to driving under the influence and related penalties.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to driving under the influence to clarify that both blood and breath alcohol levels are relevant for certain offenses and penalty purposes;
- ▶ amends provisions regarding refusal of a chemical test and associated penalties based on the circumstances;
- ▶ amends provisions regarding penalties and the requirement for a court to order probation in certain circumstances;
- ▶ amends the definition of "human driver" to clarify that a person without a valid license is subject to traffic laws, including driving under the influence; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-502.5, as last amended by Laws of Utah 2021, Chapter 79



28 **41-6a-503**, as last amended by Laws of Utah 2021, Chapter 79

29 **41-6a-505**, as last amended by Laws of Utah 2021, Chapters 79 and 83

30 **41-6a-520**, as last amended by Laws of Utah 2020, Chapter 177

31 **41-26-102.1**, as enacted by Laws of Utah 2019, Chapter 459

32 **41-26-103**, as enacted by Laws of Utah 2019, Chapter 459

34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **41-6a-502.5** is amended to read:

36 **41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing**
37 **requirements.**

38 (1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of
39 Section **41-6a-502** committed on or after July 1, 2008, may be entered as a conviction of
40 impaired driving under this section if:

41 (a) the defendant completes court ordered probation requirements; or

42 (b) (i) the prosecutor agrees as part of a negotiated plea; and

43 (ii) the court finds the plea to be in the interest of justice.

44 (2) A conviction entered under this section is a class B misdemeanor.

45 (3) (a) (i) If the entry of an impaired driving plea is based on successful completion of
46 probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.

47 (ii) If the defendant fails to appear before the court and establish successful completion
48 of the court ordered probation requirements under Subsection (1)(a), the court shall enter an
49 amended conviction of Section **41-6a-502**.

50 (iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of
51 conviction.

52 (b) The court may enter a conviction of impaired driving immediately under
53 Subsection (1)(b).

54 (4) For purposes of Section **76-3-402**, the entry of a plea to a class B misdemeanor
55 violation of Section **41-6a-502** as impaired driving under this section is a reduction of one
56 degree.

57 (5) (a) The court shall notify the Driver License Division of each conviction entered
58 under this section.

(b) Beginning on July 1, 2012, a court shall, monthly, send to the Division of Occupational and Professional Licensing, created in Section 58-1-103, a report containing the name, case number, and, if known, the date of birth of each person convicted during the preceding month of a violation of this section for whom there is evidence that the person was driving while impaired, in whole or in part, by a prescribed controlled substance.

(6) (a) The provisions in Subsections 41-6a-505(1), (3), (5), and (7) that require a sentencing court to order a convicted person to participate in a screening, an assessment, or an educational series, or obtain substance abuse treatment or do a combination of those things, apply to a conviction entered under this section.

(b) The court shall render the same order regarding screening, assessment, an educational series, or substance abuse treatment in connection with a first, second, or subsequent conviction under this section as the court would render in connection with applying respectively, the first, second, or subsequent conviction requirements of Subsections 41-6a-505(1), (3), (5), and (7).

(7) (a) Except as provided in Subsection (7)(b), a report authorized by Section 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court.

(b) The provisions of Subsection (7)(a) do not apply to a report concerning:

(i) a CDL license holder; or

(ii) a violation that occurred in a commercial motor vehicle.

(8) The provisions of this section are not available:

(a) to a person who has a prior conviction as that term is defined in Subsection 41-6a-501(2); or

(b) where there is admissible evidence that the individual:

(i) had a blood or breath alcohol level of .16 or higher;

(ii) had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled substance; or

(iii) had a combination of two or more controlled substances in the person's body that were not:

(A) prescribed by a licensed physician; or

(B) recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act.

Section 2. Section **41-6a-503** is amended to read:

41-6a-503. Penalties for driving under the influence violations.

(1) A person who violates for the first or second time Section **41-6a-502** or **41-6a-520** is guilty of an offense classified as a:

(a) class B misdemeanor; or

(b) class A misdemeanor if the person:

(i) has also inflicted bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;

(ii) had a passenger under 16 years ~~[of age]~~ old in the vehicle at the time of the offense;

(iii) was 21 years ~~[of age]~~ old or older and had a passenger under 18 years ~~[of age]~~ old in the vehicle at the time of the offense; or

(iv) at the time of the violation of Section **41-6a-502**, also violated Section **41-6a-712** or **41-6a-714**.

(2) A person who violates Section **41-6a-502** or **41-6a-520** is guilty of an offense classified as a third degree felony if:

(a) the person has also inflicted serious bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;

(b) the person has two or more prior convictions as defined in Subsection **41-6a-501**(2), each of which is within 10 years of:

(i) the current conviction ~~[under Section **41-6a-502**]~~; or

(ii) the commission of the offense upon which the current conviction is based; or

(c) the current conviction ~~[under Section **41-6a-502**]~~ is at any time after a conviction of:

(i) automobile homicide under Section **76-5-207** that is committed after July 1, 2001;

(ii) a felony violation of Section **41-6a-502** or a statute previously in effect in this state that would constitute a violation of Section **41-6a-502** that is committed after July 1, 2001; or

(iii) any conviction described in Subsection (2)(c)(i) or (ii) which judgment of conviction is reduced under Section **76-3-402**.

(3) A person is guilty of a separate offense for each victim suffering bodily injury or

serious bodily injury as a result of the person's violation of Section 41-6a-502 or death as a result of the person's violation of Section 76-5-207 whether or not the injuries arise from the same episode of driving.

(4) A person is guilty of a separate offense under Subsection (1)(b)(ii) for each passenger in the vehicle at the time of the offense that is under 16 years old.

Section 3. Section 41-6a-505 is amended to read:

41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.

(1) As part of any sentence for a first conviction of Section 41-6a-502 where there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the individual's body that were not recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed:

(a) the court shall:

(i) (A) impose a jail sentence of not less than five days; or

(B) impose a jail sentence of not less than two days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);

(v) impose a fine of not less than \$700;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party;

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(ix) unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, order the installation of an ignition interlock system as described in Section 41-6a-518; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

~~[(ii) order probation for the individual in accordance with Section 41-6a-507;]~~

~~[(iii)]~~ (ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

~~[(iv)]~~ (iii) order a combination of Subsections (1)(b)(i) ~~[through (iii)]~~ and (ii).

(2) (a) If an individual described in Subsection (1) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (1)(a).

(b) If an individual described in Subsection (1) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (2)(a).

(3) As part of any sentence for any first conviction of Section 41-6a-502 not described in Subsection (1):

(a) the court shall:

(i) (A) impose a jail sentence of not less than 2 days; or

(B) require the individual to work in a compensatory-service work program for not less than 48 hours;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (3)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not

order substance abuse treatment as described under Subsection (3)(b);

(v) impose a fine of not less than \$700;

(vi) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(vii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order probation for the individual in accordance with Section 41-6a-507;

(iii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iv) order a combination of Subsections (3)(b)(i) through (iii).

(4) (a) If an individual described in Subsection (3) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (3)(a).

(b) If an individual described in Subsection (4)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (4)(a).

(5) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based and where there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the individual's body that were not

recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 20 days;

(B) impose a jail sentence of not less than 10 days in addition to home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; or

(C) impose a jail sentence of not less than 10 days in addition to ordering the individual to obtain substance abuse treatment, if the court finds that substance abuse treatment is more likely to reduce recidivism and is in the interests of public safety;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (5)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (5)(b);

(v) impose a fine of not less than \$800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) order the installation of an ignition interlock system as described in Section 41-6a-518;

(viii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(ix) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse

treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (5)(b)(i) and (ii).

(6) (a) If an individual described in Subsection (5) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (5)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (6)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (6)(a).

(7) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based and that does not qualify under Subsection (5):

(a) the court shall:

(i) (A) impose a jail sentence of not less than 10 days; or

(B) impose a jail sentence of not less than 5 days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (7)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (7)(b);

(v) impose a fine of not less than \$800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection

41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii) (A) order the individual to pay the towing and storage fees described in Section

72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection

41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (7)(b)(i) and (ii).

(8) (a) If an individual described in Subsection (7) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (7)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (8)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (8)(a).

(9) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation where there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the person's body that were not recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed, the court shall impose:

(a) a fine of not less than \$1,500;

(b) a jail sentence of not less than 120 days;

(c) home confinement of not fewer than 120 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with

Section 41-6a-506; and

(d) supervised probation.

(10) (a) For Subsection (9) or Subsection 41-6a-503(2)(b), the court:

(i) shall impose an order requiring the individual to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate; and

(ii) may impose an order requiring the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older.

(b) If an individual described in Subsection (10)(a)(ii) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended prison sentence described in Subsection (9).

(11) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation with a sentence not described in Subsection (9), the court shall impose:

(a) a fine of not less than \$1,500;

(b) a jail sentence of not less than 60 days;

(c) home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and

(d) supervised probation.

(12) (a) (i) Except as described in Subsection (12)(a)(ii), a court may not suspend the requirements of this section.

(ii) A court may suspend requirements as described in Subsection (2), (4), (6), or (8); ~~(10)(b), or (11)]~~.

(b) A court, with stipulation of both parties and approval from the judge, may convert a jail sentence required in this section to electronic home confinement.

(c) A court may order a jail sentence imposed as a condition of misdemeanor probation under this section to be served in multiple two-day increments at weekly intervals if the court determines that separate jail increments are necessary to ensure the defendant can serve the statutorily required jail term and maintain employment.

(13) If an individual is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, the

court shall order the following, or describe on record why the order or orders are not appropriate:

(a) treatment as described under Subsection (1)(b), (3)(b), (5)(b), or (7)(b); and

(b) one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device or remote alcohol monitor as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

Section 4. Section 41-6a-520 is amended to read:

41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of tests -- Refusal -- Warning, report.

(1) (a) A person operating a motor vehicle in this state is considered to have given the person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for the purpose of determining whether the person was operating or in actual physical control of a motor vehicle while:

(i) having a blood or breath alcohol content statutorily prohibited under Section 41-6a-502, 41-6a-530, or 53-3-231;

(ii) under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6a-502; or

(iii) having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517.

(b) A test or tests authorized under this Subsection (1) must be administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of a motor vehicle while in violation of any provision under Subsections (1)(a)(i) through (iii).

(c) (i) The peace officer determines which of the tests are administered and how many of them are administered.

(ii) If a peace officer requests more than one test, refusal by a person to take one or more requested tests, even though the person does submit to any other requested test or tests, is

369 a refusal under this section.

370 (d) (i) A person who has been requested under this section to submit to a chemical test
371 or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be
372 administered.

373 (ii) The failure or inability of a peace officer to arrange for any specific chemical test is
374 not a defense to taking a test requested by a peace officer, and it is not a defense in any
375 criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the
376 requested test or tests.

377 (2) (a) A peace officer requesting a test or tests shall warn a person that refusal to
378 submit to the test or tests may result in criminal prosecution, revocation of the person's license
379 to operate a motor vehicle, a five or 10 year prohibition of driving with any measurable or
380 detectable amount of alcohol in the person's body depending on the person's prior driving
381 history, and a three-year prohibition of driving without an ignition interlock device if the
382 person:

383 (i) has been placed under arrest;

384 (ii) has then been requested by a peace officer to submit to any one or more of the
385 chemical tests under Subsection (1); and

386 (iii) refuses to submit to any chemical test requested.

387 (b) (i) Following the warning under Subsection (2)(a), if the person does not
388 immediately request that the chemical test or tests as offered by a peace officer be
389 administered, a peace officer shall, on behalf of the Driver License Division and within 24
390 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's
391 privilege or license to operate a motor vehicle.

392 (ii) When a peace officer gives the notice on behalf of the Driver License Division, the
393 peace officer shall supply to the operator, in a manner specified by the Driver License Division,
394 basic information regarding how to obtain a hearing before the Driver License Division.

395 (c) As a matter of procedure, the peace officer shall submit a signed report, within 10
396 calendar days after the day on which notice is provided under Subsection (2)(b), that:

397 (i) the peace officer had grounds to believe the arrested person was in violation of any
398 provision under Subsections (1)(a)(i) through (iii); and

399 (ii) the person had refused to submit to a chemical test or tests under Subsection (1).

(3) Upon the request of the person who was tested, the results of the test or tests shall be made available to the person.

(4) (a) The person to be tested may, at the person's own expense, have a physician or a physician assistant of the person's own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.

(b) The failure or inability to obtain the additional test does not affect admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

(c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.

(5) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.

(6) Notwithstanding the provisions in this section, a blood test taken under this section is subject to Section 77-23-213.

(7) A person is guilty of refusing a chemical test if a peace officer has issued the warning required in Subsection (2)(a) and the person refuses to submit to a test of the person's blood under Subsection (1) after a court has issued a warrant to draw and test the blood.

~~[(8) A person who violates Subsection (7) is guilty of:]~~

~~[(a) a third degree felony if:]~~

~~[(i) the person has two or more prior convictions as defined in Subsection 41-6a-501(2), each of which is within 10 years of:]~~

~~[(A) the current conviction; or]~~

~~[(B) the commission of the offense upon which the current conviction is based; or]~~

~~[(ii) the conviction is at any time after a conviction of:]~~

~~[(A) automobile homicide under Section 76-5-207;]~~

~~[(B) a felony violation of this section or Section 41-6a-502; or]~~

~~[(C) any conviction described in Subsection (8)(a)(ii) which judgment of conviction is reduced under Section 76-3-402; or]~~

~~[(b) a class B misdemeanor if none of the circumstances in Subsection (8)(a) applies:]~~

(8) A person who violates Subsection (7) commits an offense classified as a

431 misdemeanor or felony in accordance with Subsections 41-6a-503(1) and (2).

432 (9) As part of any sentence for a conviction of violating this section, the court shall
433 impose the same sentencing as outlined for driving under the influence violations in Section
434 41-6a-505, based on whether this is a first, second, or subsequent conviction as defined by
435 Subsection 41-6a-501(2), with the following modifications:

436 (a) any jail sentence shall be 24 consecutive hours more than would be required under
437 Section 41-6a-505;

438 (b) any fine imposed shall be \$100 more than would be required under Section
439 41-6a-505; and

440 (c) the court shall order one or more of the following:

441 (i) the installation of an ignition interlock system as a condition of probation for the
442 individual in accordance with Section 41-6a-518;

443 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring
444 device as a condition of probation for the individual; or

445 (iii) the imposition of home confinement through the use of electronic monitoring in
446 accordance with Section 41-6a-506.

447 (10) (a) The offense of refusal to submit to a chemical test under this section does not
448 merge with any violation of Section 32B-4-409, 41-6a-502, 41-6a-517, or 41-6a-530.

449 (b) A guilty or no contest plea to an offense of refusal to submit to a chemical test
450 under this section may not be held in abeyance.

451 Section 5. Section 41-26-102.1 is amended to read:

452 **41-26-102.1. Definitions.**

453 (1) "ADS-dedicated vehicle" means a vehicle designed to be operated exclusively by a
454 level four or five ADS for all trips within the given operational design domain limitations of
455 the ADS, if any.

456 (2) (a) "Automated driving system" or "ADS" means the hardware and software that
457 are collectively capable of performing the entire dynamic driving task on a sustained basis,
458 regardless of whether the ADS is limited to a specific operational design domain, if any.

459 (b) "Automated driving system" or "ADS" is used specifically to describe a level three,
460 four, or five driving automation system.

461 (3) "Commission" means the State Tax Commission as defined in Section 59-1-101.

(4) "Conventional driver" means a human driver who is onboard the motor vehicle and manually performs some or all of the following actions in order to operate a vehicle:

- (a) braking;
- (b) accelerating;
- (c) steering; and
- (d) transmission gear selection input devices.

(5) (a) "Dispatch" means to place an ADS-equipped vehicle into service in driverless operation by engaging the ADS.

(b) "Dispatch" includes software-enabled dispatch of multiple ADS-equipped motor vehicles in driverless operation that may complete multiple trips involving pick-up and drop-off of passengers or goods throughout a day or other pre-defined periods of service, and which may involve multiple agents performing various tasks related to the dispatch function.

(6) "Division" means the Motor Vehicle Division of the commission, created in Section [41-1a-106](#).

(7) "Driverless operation" means the operation of an ADS-equipped vehicle in which:

- (a) no on-board user is present; or
- (b) no on-board user is a human driver with a valid driver license or fallback-ready user.

(8) "Driverless operation dispatcher" means a user who dispatches an ADS-equipped vehicle in driverless operation.

(9) "Driving automation system" means the hardware and software collectively capable of performing part or all of the dynamic driving task on a sustained basis.

(10) "Driving automation system feature" means a specific function of a driving automation system.

(11) (a) "Dynamic driving task" means all of the real-time operational and tactical functions required to operate a motor vehicle in on-road traffic, including:

- (i) lateral vehicle motion control through steering;
- (ii) longitudinal motion control through acceleration and deceleration;
- (iii) monitoring the driving environment through object and event detection, recognition, classification, and response preparation;
- (iv) object and event response execution;

(v) maneuver planning; and

(vi) enhancing conspicuity with lighting, signaling, and gesturing.

(b) "Dynamic driving task" does not include strategic functions such as trip scheduling and selection of destinations and waypoints.

(12) "Engage" as it pertains to the operation of a vehicle by a driving automation system means to cause a driving automation system feature to perform part or all of the dynamic driving task on a sustained basis.

(13) "External event" is a situation in the driving environment that necessitates a response by a human driver with a valid driver license or driving automation system.

(14) "Fallback-ready user" means the user of a vehicle equipped with an engaged level three ADS who is:

(a) a human driver with a valid driver license; and

(b) ready to operate the vehicle if:

(i) a system failure occurs; or

(ii) the ADS issues a request to intervene.

(15) (a) "Human driver" means a natural person~~[(i) with a valid license to operate a motor vehicle of the proper class for the motor vehicle being operated; and (ii)]~~ who performs in real-time all or part of the dynamic driving task.

(b) "Human driver" includes a:

(i) conventional driver; and

(ii) remote driver.

(16) "Level five automated driving system" or "level five ADS" means an ADS feature that has the capability to perform on a sustained basis the entire dynamic driving task under all conditions that can reasonably be managed by a human driver, as well as any maneuvers necessary to respond to a system failure, without any expectation that a human user will respond to a request to intervene.

(17) "Level four automated driving system" or "level four ADS" means an ADS feature that, without any expectation that a human user will respond to a request to intervene, has:

(a) the capability to perform on a sustained basis the entire dynamic driving task within its operational design domain; and

(b) the capability to perform any maneuvers necessary to achieve a minimal risk

condition in response to:

(i) an exit from the operational design domain of the ADS; or

(ii) a system failure.

(18) "Level three automated driving system" or "level three ADS" means an ADS feature that:

(a) has the capability to perform on a sustained basis the entire dynamic driving task within its operational design domain; and

(b) requires a fallback-ready user to operate the vehicle after receiving a request to intervene or in response to a system failure.

(19) "Minimal risk condition" means a condition to which a user or an ADS may bring a motor vehicle in order to reduce the risk of a crash when a given trip cannot or should not be completed.

(20) "Object and event detection and response" means the subtasks of the dynamic driving task that include:

(a) monitoring the driving environment; and

(b) executing an appropriate response in order to perform the dynamic driving task.

(21) "On-demand autonomous vehicle network" means a transportation service network that uses a software application or other digital means to dispatch or otherwise enable the prearrangement of transportation with motor vehicles that have a level four or five ADS in driverless operation for purposes of transporting persons, including for-hire transportation and transportation for compensation.

(22) "Operate" means the same as that term is defined in Section [41-1a-102](#).

(23) "Operational design domain" means the operating conditions under which a given ADS or feature thereof is specifically designed to function, including:

(a) speed range, environmental, geographical, and time-of-day restrictions; or

(b) the requisite presence or absence of certain traffic or roadway characteristics.

(24) "Operator" means the same as that term is defined in Section [41-6a-102](#).

(25) "Passenger" means a user on board a vehicle who has no role in the operation of that vehicle.

(26) "Person" means the same as that term is defined in Section [41-6a-102](#).

(27) "Remote driver" means a human driver with a valid driver license who is not

located in a position to manually exercise in-vehicle braking, accelerating, steering, or transmission gear selection input devices, but operates the vehicle.

(28) "Request to intervene" means the notification by an ADS to a fallback-ready user indicating that the fallback-ready user should promptly begin or resume operation of the vehicle.

(29) "Sustained operation of a motor vehicle" means the performance of part or all of the dynamic driving task both between and across external events, including response to external events and continued performance of part or all of the dynamic driving task in the absence of external events.

(30) "System failure" means a malfunction in a driving automation system or other vehicle system that prevents the ADS from reliably performing the portion of the dynamic driving task on a sustained basis, including the complete dynamic driving task, that the ADS would otherwise perform.

(31) "User" means a:

- (a) human driver;
- (b) passenger;
- (c) fallback-ready user; or
- (d) driverless operation dispatcher.

Section 6. Section **41-26-103** is amended to read:

41-26-103. Operation of motor vehicles equipped with an automated driving system.

(1) A motor vehicle equipped with a level three ADS may operate on a highway in this state if:

(a) the motor vehicle is operated, whether by the ADS or human driver with a valid driver license, in compliance with the applicable traffic and motor vehicle safety laws and regulations of this state, unless an exemption has been granted;

(b) when required by federal law, the motor vehicle:

(i) has been certified as being in compliance with all applicable motor vehicle safety standards; and

(ii) bears the required certification label, including reference to any exemption granted under federal law;

(c) when operated by an ADS, if a system failure occurs that renders the ADS unable to perform the entire dynamic driving task relevant to the intended operational design domain of the ADS, the ADS will achieve a minimal risk condition or make a request to intervene; and

(d) the motor vehicle is titled and registered in compliance with Section 41-26-107.

(2) A motor vehicle equipped with a level four or level five ADS may operate in driverless operation on a highway in this state if:

(a) the ADS is capable of operating in compliance with applicable traffic and motor vehicle laws and regulations of this state, unless an exemption has been granted;

(b) when required by federal law, the motor vehicle:

(i) has been certified as being in compliance with all applicable Federal Motor Vehicle Safety Standards and regulations; and

(ii) bears the required certification label including reference to any exemption granted under federal law;

(c) a system failure occurs that renders the ADS unable to perform the entire dynamic driving task relevant to the intended operational design domain of the ADS, a minimal risk condition will be achieved; and

(d) the motor vehicle is titled and registered in compliance with Section 41-26-107.

(3) A vehicle being operated by an ADS or a remote driver is not considered unattended.

(4) The division may revoke the registration and privilege for a vehicle equipped with an ADS to operate on a highway of the state if the Department of Transportation or the Department of Public Safety determines and notifies the division that:

(a) the ADS is operating in an unsafe manner; or

(b) the vehicle's ADS is being engaged in an unsafe manner.

(5) Special mobile equipment, as defined in Section 41-1a-102, equipped with a level three, four, or five ADS, may be moved or operated incidentally over a highway.

(6) Nothing in this chapter prohibits or restricts a human driver with a valid driver license from operating a vehicle equipped with an ADS and equipped with controls that allow for the human driver to perform all or part of the dynamic driving task.